Remarks:

Claims 1, 3-9, 11, and 13-19 are pending. Applicant has amended the claims to distinctively claim the subject matter of the invention. By virtue of this amendment, claims 1 and 11 are amended. No new matter is added as support for the amendments is found within the Specification and the drawings. It is submitted that the application, as amended, is in condition for allowance. Accordingly, reconsideration and reexamination are respectfully requested.

§132 Rejection(s):

Claims 1 and 11 are rejected under 35 U.S.C. §132(a) for introducing new matter, specifically, the recited language "without regard to the call state of the mobile device," into the disclosure. This rejection is moot as claims 1 and 11, as amended, do not recite the above language.

§102 Rejection(s):

Claims 1, 3, 4, 8, 11, 13, 14, and 18 are rejected under 35 U.S.C. §102(a) as being anticipated by uReach.com, "the-all-in-one communications service" (hereafter "uReach"). This rejection is respectfully traversed.

It is respectfully noted that anticipation of a claim under 35 U.S.C. §102 (a), (b) and (e) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," that "[t]he identical invention must be shown in as complete detail as is contained in the … claim" and "[t]he elements must be arranged as required by the claim." MPEP §2131.

uReach is directed to a communications service provided at the website uReach.com. At uReach.com, a user is provided with a toll free number and uReach.com account. All calls directed to the toll free number may be forwarded to one or more other phone numbers (e.g., home, work, or cell phone numbers). If the user does not answer a

call, the communications service automatically takes a message, which can be accessed via uReach.com from any phone or personal computer.

As such, uReach fails to disclose at least one of the elements recited in claim 1. In particular, uReach fails to disclose 1) monitoring first data directed to the mobile device over a wireless communications network; 2) wherein the first data causes the mobile device to execute one or more first telephony events; 3) generating second data from the first data, in response to determining that the second data is needed to cause the general-purpose computer to execute one or more second telephony events that are equivalent or similar to the one or more first telephony events that are designated for execution on the mobile device; and 4) wherein the general-purpose computer receives the first or the second data and executes the one or more second telephony events, allowing a user to access or respond to the one or more second telephony events in real-time.

In other words, claim 1 recites monitoring first data directed to a mobile device (e.g., a phone number associated with the mobile device). uReach, however, discloses monitoring first data directed to a toll free phone number associated with a user's uReach.com account, not with a particular mobile device.

Claim also recites that a mobile device executes one or more first telephony events, in response to the first data. In uReach, however, all first telephony events are executed by the communications service provided at uReach.com, not a mobile device. Thus, a server device, not a mobile device, forwards voice messages for listening to over a general-purpose computer.

Further, claim 1 recites that a mobile device generates second data to cause a general-purpose computer to execute one or more second telephony events equivalent or similar to the first telephony events executed by the mobile device. That is, the general-purpose computer recited in claim 1 can replicate any telephony event executed by the

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mobile device. For example, if the mobile device outputs a ring tone, the mobile device generates ring tone data so that the general-purpose computer can also output a ring tone. See Specification, paragraph [0041]. uReach, however, only discloses that a general-purpose computer can provide a user with a voicemail message or a new message notification.

Moreover, claim 1 recites that a general-purpose computer executes second telephony events so that a user can respond to the second telephony events in real time. The second telephony events in claim 1 may include outputting a ring tone so that a user of the general-purpose computer can answer an incoming call in real-time. In uReach, however, incoming calls are merely forwarded to other phone numbers, not to a general-purpose computer. As such, uReach fails to disclose that a user of a general-purpose computer can answer an incoming call in real-time. The user must wait for a voicemail message or a new message notification to respond to the incoming call.

Accordingly, since uReach fails to disclose at least one of the recited structural or functional elements in claim 1, the §102 rejection should be withdrawn. Please note that "[a] functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step." MPEP § 2173.05.

§103 Rejection(s):

Claims 5-7, 9, 15-17, and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over uReach in view of U.S. Patent Publication No. 2002/0194331 to Lewis et al. (hereafter "Lewis") This rejection is respectfully traversed.

Lewis is directed to a method and corresponding system for notifying a mobile station of an incoming call. See paragraph [0008]. If the mobile station is fully engaged such that the mobile station cannot accept the incoming call without disconnecting from an existing call, an incoming call notification is transmitted to the mobile station. See paragraphs [0010] and [0031]. The incoming call may also be routed to a home mobile switching center, and the home mobile switching center may play an announcement to the incoming caller. See paragraph [0061].

As such, Lewis fails to cure the deficiencies of uReach as Lewis also fails to teach or suggest 1) monitoring first data directed to the mobile device over a wireless communications network; 2) wherein the first data causes the mobile device to execute one or more first telephony events; 3) generating second data from the first data, in response to determining that the second data is needed to cause the general-purpose computer to execute one or more second telephony events that are equivalent or similar to the one or more first telephony events that are designated for execution on the mobile device; and 4) wherein the general-purpose computer receives the first or the second data and executes the one or more second telephony events, allowing a user to access or respond to the one or more second telephony events in real-time, as recited in claim 1.

In other words, claim 1 recites that a mobile device generates second data to cause a general-purpose computer to execute one or more second telephony events equivalent or similar to the first telephony events executed by the mobile device. That is, the general-purpose computer recited in claim 1 can replicate any telephony event executed by the mobile device. For example, if the mobile device outputs a ring tone, the mobile device generates ring tone data so that the general-purpose computer can also output a ring tone. See Specification, paragraph [0041]. Lewis, however, only teaches or suggests that a general-purpose computer can provide a user with an incoming call announcement.

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Claim 1 also recites that a general-purpose computer executes second telephony events so that a user can respond to the second telephony events in real time. The second telephony events in claim 1 may include outputting a ring tone so that a user of the general-purpose computer can answer an incoming call in real-time. In Lewis, however, incoming calls are not forwarded to a general-purpose computer. As such, uReach fails to disclose that a user of a general-purpose computer can answer an incoming call in real-time. The user must wait for the incoming call announcement to respond to the incoming call.

Further, while the suggestion to modify or combine references may come from the knowledge and common sense of a person of ordinary skill in the art, the fact that such knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge. *C.R. Bard, Inc. v. M3 Systems, Inc.,* 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998).

Here, the modification or combination proposed by the Examiner is not based on any clear and convincing evidence of a reason, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to combine the references. Rather, the reason, suggestion and motivation for the combination of references proposed by the Examiner simply is impermissible hindsight reconstruction given the benefit of Applicant's disclosure.

The Federal Circuit has consistently held that hindsight reconstruction does not constitute a prima facie case of obviousness under 35 U.S.C. §103. *In re Geiger*, 2 USPQ 2d 1276 (Fed Cir. 1987). Unfortunately, the Examiner rather than pointing to what the prior art discloses and teaches as to making the suggested modification relies on assumptions and statements without any support in the record. As such, the Examiner's statements regarding obviousness and motivation to modify are but shortcuts to a

conclusion of obviousness devoid of the required analytical approach based on what is actually disclosed in the prior art.

Reliance on impermissible hindsight to avoid express limitations in the claims and setting forth unsupported hypothetical teachings to recreate the Applicant's claimed invention cannot establish a prima facie case of obviousness. Since obviousness may not be established by hindsight reconstruction, Applicant invites the Examiner to point out the alleged motivation to combine with specificity,[1] or alternatively provide a reference or affidavit in support thereof, pursuant to MPEP §2144.03.[2]

Since no reasonable justification is provided in the Office Action as to how such modification or combination is possible and obviousness may not be established based on hindsight and conjecture, it is respectfully requested that the §103 rejection be withdrawn.

For the above reasons, none of the cited references, either alone or in combination, teach or suggest all the elements recited in claim 1. Therefore, it is respectfully submitted that claim 1 is in condition for allowance. Claims 3-9 depend on claim 1 and should be in condition for allowance by virtue of their dependence on an allowable base claim. Claim 11 substantially incorporates the elements of claim 1; therefore, claim 11 and claims 13-19 depending from claim 11 should also be in condition for allowance.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing

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1 *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

2 "The rationale supporting an obviousness rejection may be based on common knowledge in the art or "well-known" prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner."

the scope of any claim, unless Applicant has expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (888) 789 2266 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

/F. Jason Far-hadian/

Date: December 24, 2008   By:

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F. Jason Far-hadian, Esq.
Registration No. 42,523